



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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Governor

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Director

May 18, 2006

BOB DUKE  
WATERMASTER, WATER DISTRICT NO. 34  
PO BOX 53  
MACKAY, ID 83251-0053

**Re: Antelope Creek Regulation and Futile Call Determination**

Bob,

I drafted this letter at the beginning of the irrigation season with the objective of providing you and the water district some guidance regarding regulation and determination of futile delivery calls on Antelope Creek for this and subsequent irrigation seasons. I did not complete the letter because the flooding conditions on Antelope Creek later in May made these instructions for futile call and regulation unnecessary at the time. I apologize for the delay in getting this to you. I hope this letter provides future guidance on this subject. The guidance herein is based in part on the experience gained early this year. I propose adding this letter to the *Water District 34 Guidelines for Operation* unless you have particular concerns or disagreements with this guidance.

Beginning May 1 of each year, the watermaster should begin keeping records of deliveries in the Antelope drainage. All diversions should have measuring devices and headgates in place after June 1, 2005, in accordance with the order issued by IDWR on November 16, 2004. In the event that measuring devices or headgates are not functioning or are washed out due to spring flooding, measuring and regulation should be done to the greatest extent practical using acceptable alternate methods until devices can be repaired or reinstalled. The watermaster should current meter diversions periodically until measuring devices are in place. The watermaster may refuse delivery of water if the user is not working diligently towards repair or replacement of any measuring device.

**Regulation during Rising Flow, Three Conditions that Potentially Require a Futile Call Determination**

Antelope Creek and its tributaries are tributary to the Big Lost River and are to be administered in priority with the Big Lost River unless a futile call determination is made. There are three conditions assumed to occur at the start of the irrigation season and/or during the period when Antelope Creek flows are increasing because of runoff from spring snowmelt. The three conditions listed below are situations under which a futile call determination may be appropriate.

1. Antelope Creek is not connected to the Big Lost River at the confluence, and the Big Lost River is not connected to the Moore diversion.
2. Antelope Creek is not connected to the Big Lost River and the Big Lost River is connected to the Moore Diversion.

3. Antelope Creek is connected to the Big Lost River, and the Big Lost River is not connected to the Moore Diversion.

Procedures for regulation and the process for initiating a futile call determination for each of the three conditions follow.

1. The Big Lost River is not Connected to the Moore Diversion and Antelope Creek is not Connected to the River.

At the start of the irrigation season on May 1, Antelope Creek normally is not connected to the Big Lost River and the Big Lost River is not connected to the Moore Diversion. When this condition exists, the delivery of water in the Antelope drainage is made to those Antelope drainage and Big Lost River water users calling for water. If there is insufficient water for filling a delivery call on Antelope Creek, the more junior water rights are curtailed to fill the more senior rights.

If a lower Big Lost River water right holder makes a water delivery call, the watermaster must attempt to deliver that water for beneficial use. The delivery attempt consists of shutting off Big Lost River and tributary diversions for water rights with priorities junior to the priority of the water right owned by the Big Lost River right holder making the call, including Antelope Creek water rights. If shutting off the junior water rights (curtailment) provides a sufficient amount of water to supply the Big Lost user's call, the call is not futile.

If junior water rights are curtailed, and a useable quantity of water is not available to the Big Lost River user making a delivery call, the call may be futile. In order to obtain a futile call determination from IDWR, the watermaster should follow the procedures in Rule 20.04 of the Water District 34 Water Distribution Rules and the Section 7.6 of the IDWR Water District 34 Guidelines for Operation. Specific reference is made to Antelope Creek and other tributary streams in Section 7.6 of the Water District 34 Guidelines. Sufficient documentation of flows, deliveries, and the corresponding priority date of water right deliveries on Antelope Creek need to be compiled and submitted to make a futile call determination. Delivery records must include deliveries made before and after the curtailment action in response to the call by the Big Lost River water user(s). Because no gauging stations exist on Antelope Creek, assistance may be needed from IDWR to make current meter measurements of flows on the creek. IDWR will work toward adding the Antelope diversions to the Internet data entry application so they can be entered along with the river diversions next irrigation season.

2. The River is Connected to the Moore Diversion and Antelope Creek is not Connected to the River

If during the early part of the irrigation season the Big Lost River is connected to the Moore Diversion but Antelope Creek is not connected to the river, water rights in the Antelope drainage may also be regulated as a separate stream from the Big Lost River unless, or until a user on the Big Lost River makes a delivery call. If a delivery call is made, water rights on the Big Lost River and tributaries, including the Antelope drainage, are cut back so only those with a priority the same as or senior to the priority date in effect on the Big Lost River are on. If regulation of junior rights on the Big Lost and tributaries releases water in sufficient quantity to meet the lower Big Lost users call, the call is not futile.

If the senior Big Lost River right holder who is making a delivery call is not receiving a useable amount of water, the same process as described for condition 1 above is used in order for IDWR to make a futile call determination.

3. The River is Not Connected to the Moore Diversion and Antelope Creek is Connected to the River.

Regulation and procedures for an IDWR futile call determination are the same as for condition 1, above.

**Futile Call Determination Request during Receding Flow Conditions After Antelope Creek Has Connected to the Big Lost River**

Once Antelope Creek is connected to the Big Lost River and natural flow water rights are being delivered to diversions and right holders on the lower Big Lost River, the watermaster should be regulating water rights in the Antelope drainage in priority with water rights on the Big Lost River unless a futile call determination is made. If water is not reaching the Big Lost River from the main or South Antelope Creek channels, a request for a futile call determination may be warranted. A futile call determination in this case should be done in the same manner or procedure described in condition 1 above, and in accordance with Rule 20.04 of the Water District 34 Water Distribution Rules, and Section 7.6 of the Water District 34 Guidelines for Operation.

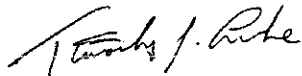
When addressing a futile call request, it may be necessary to current meter flows in the main and South Antelope channels at the river confluence, and then farther upstream and below the last diversion point. These metered flows may be used to establish the losses in the channels, and demonstrate that the call by the Big Lost River user(s) is futile. IDWR staff may be available to assist with current metering, if requested.

**Water Distribution Rules for District 34**

Guidance in this letter is intended to address issues that are not covered explicitly in the Water District 34 Water Distribution Rules for requesting futile call determinations by IDWR. In addition to this guidance letter, Rule 20.04 - *Futile Call For The Delivery of Surface Water* lists other criteria, the most important of which is: the director (of IDWR) may consult the Water District 34 advisory board, the Big Lost River Irrigation District and other impacted water users when determining whether attempting to deliver senior downstream surface water rights would be futile.

Please call if you have questions.

Sincerely,



Tim Luke  
Water Distribution Section

cc: IDWR Easter Region – Idaho Falls  
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